



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,126	03/08/2006	Gerd Schmaucks	E-1048	2783
20311	7590	12/01/2010	EXAMINER	
LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016				LACLAIR, DARCY D
ART UNIT		PAPER NUMBER		
1763				
			NOTIFICATION DATE	DELIVERY MODE
			12/01/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@lmiplaw.com

***Attachment to Advisory Action***

1. Applicants' amendment to the claims filed **11/22/2010** has not been entered given that it introduces new issues that would require further consideration and/or search.

With respect to the new issues, applicant has amended to recite a filler from about 105% to about 500% by weight of the elastomeric resin, and microsilica from 255% to 400% by weight of the elastomeric resin. It is the examiner's position that this is new matter since the specification does not appear to support these particular values. The content of fillers is detailed from 15 to 500% (page 1 line 1) with no greater specificity, and the content of microsilica is specified from 1 to 400%, preferably 5 to 300% and most preferably from 5 to 150% by weight. (Page 2, line 20) It is not clear from the specification why a value of 255% and above would be selected which, while within the greatest range specified, is targeted at a range not consistent with the preferred values. Furthermore, the examples specify 20 phr, 50 phr, 80 phr, 110 phr, 140 phr, and 160 phr of filler, and 20 phr, 30 phr, and 50 phr of the microsilica. This also falls outside of applicant's amended claims. Thus support for these values does not appear in the Examples.

With respect to other new issues, applicant has amended the range of both filler and microsilica content. It is the examiner's position that this is a new issue since the limitations of the claim have changed, narrowing the range to exclude values falling within the ranges of the current prior art of record. Therefore, the amendment would require further consideration.

2. As the amendment is not being entered, Applicant's remarks, directed to the newly amended claims will not be addressed in this communication.

/D. D. L./  
Examiner, Art Unit 1796

/Milton I. Cano/  
Supervisory Patent Examiner, Art Unit 1763